

P29691

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Uwe SCHOENROCK et al.

**Confirmation No. 1033**

Group Art Unit: 1631

Appl. No. : 09/132,799

Examiner: Borin, Michael L

Filed : August 13, 1998

For : COSMETIC OR DERMATOLOGICAL PREPARATIONS COMPRISING  
OLIGOPEPTIDES FOR LIGHTENING THE SKIN OF AGE MARKS  
AND/OR FOR PREVENTING TANNING OF THE SKIN, IN  
PARTICULAR TANNING OF THE SKIN CAUSED BY UV RADIATION

**RECORD OF INTERVIEWS  
AND  
RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop **Appeal Brief - Patent**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This is in response to the Notification of Non-Compliant Appeal Brief mailed September 17, 2007 in connection with the above-identified application, which sets a one month period for response until October 17, 2007.

Appellant notes that this response is being filed prior to the expiration of the one month shortened statutory period for response, whereby an extension of time should not be necessary to maintain the pendency of the application. However, if any extension of time is required to maintain the pendency of this application, this is an express request for any required extension of time, and authorization to charge any required fee, including any required extension of time and/or claim fee, to Deposit Account No. 19-0089.

### **Discussion Of Telephone Interviews**

Appellant expresses appreciation for the courtesies extended by Examiner Borin, Examiner Moran and Examiner Feinberg to Appellant's representative Arnold Turk during telephone calls with the examiners culminating in a telephone interview with Examiner Moran on October 10, 2007.

During these telephone conversations, the two indications in the Notification that the Brief is defective were discussed.

Regarding the listing of withdrawn claim 21 as a claim under appeal, Examiner Morin indicated that a substitute Appendix can be submitted with a request that the newly-submitted Appendix omitting non-elected claim 21 be substituted for the previously filed Appendix.

Regarding the assertion in the Notification that the Brief does not comply with the requirements to the briefs set forth in 37 CFR 41.3 as the Brief must be brought in accordance with the new rules of practice before the PBPAI (effective September 13, 2004), Appellant's representative submitted that the Appeal Brief was filed prior to September 13, 2004, and therefore there is no requirement that the Appeal Brief comply with the rules that are effective on September 13, 2004. Examiner Morin confirmed during the above-noted telephone conversations that this part of the Notification was in error, because the Appeal Brief was filed prior to the new rules, and therefore the Appeal Brief need not comply with the new rules.

### **Response To Notification**

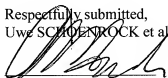
Appellant is submitting herewith an Appendix including the claims under appeal wherein claim 21 is not included. Accordingly, the Appendix includes claims 6, 11, 12, 14-20 and 22. Appellant requests that the Appendix submitted herewith be substituted for the previously filed Appendix filed May 6, 2003.

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Appellant requests consideration of the Appeal Brief with withdrawal of the rejections of record, and allowance of the application.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Uwe SCHÖENROCK et al.



Arnold Turk  
Reg. No. 33,094

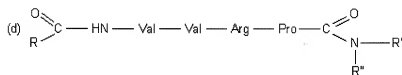
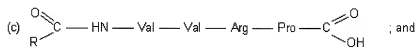
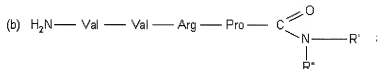
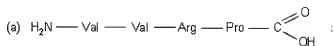
October 16, 2007  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191

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(10) APPENDIX - CLAIMS ON APPEAL

6. The topical water-in-oil preparation of claim 14, wherein the oligopeptides(s) is/are present in cosmetic or dermatological topical preparations in concentration of 0.000001 -10% by weight, based on the total weight of the preparations.
11. The topical water-in-oil preparation of claim 6, wherein the oligopeptides(s) is/are present in the cosmetic or dermatological topical preparations in concentrations of 0.0001 - 1% by weight based on the total weight of the preparations.
12. The topical water-in-oil preparation of claim 11, wherein the oligopeptides(s) is/are present in the cosmetic or dermatological topical preparations in concentrations of 0.0001 - 0.1% by weight based on the total weight of the preparations.
14. A cosmetic or dermatological topical water-in-oil preparation for cosmetic and topical dermatological lightening of the skin or preventing tanning of the skin caused by UV radiation which comprises of one or more monomeric oligopeptides selected from the group consisting of:

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wherein:

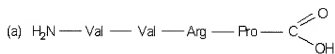
R represents a branched or unbranched, saturated or unsaturated alkyl radical having  $\text{C}_1\text{-C}_{30}$  carbon atoms,

R' and R'' independently of one another may be selected from the group consisting of hydrogen and branched or unbranched, saturated or unsaturated alkyl radical having  $\text{C}_1\text{-C}_{30}$  carbon atoms,

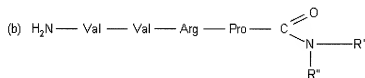
one or more cosmetically or dermatologically acceptable active ingredients, auxiliaries and/or additives; and

a cosmetically or dermatologically acceptable carrier.

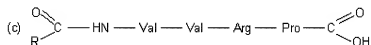
15. The cosmetic or dermatological topical water-in-oil preparation of claim 14 wherein the oligopeptide is



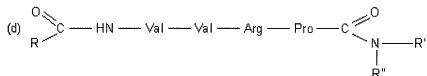
16. The cosmetic or dermatological topical water-in-oil preparation of claim 14 wherein the oligopeptide is



17. The cosmetic or dermatological topical water-in-oil preparation of claim 14 wherein the oligopeptide is



18. The cosmetic or dermatological topical water-in-oil preparation of claim 14 wherein the oligopeptide is



19. The cosmetic or dermatological topical water-in-oil preparation of claim 16 wherein R' and R'' is hydrogen.
20. The cosmetic or dermatological topical water-in-oil preparation of claim 17 wherein R is methyl.
22. The cosmetic of dermatological topical water-in-oil preparation of claim 18 wherein R is methyl, R' is hydrogen and R'' is hydrogen.